

# NATIONAL MEDIATION BOARD

annual performance report

2001

FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2001



# September 11, 2001

## AMERICAN AIRLINES FLIGHT 11

### Flight Crew

Captain John Ogonowski  
First Officer Thomas McGuinness

### Flight Attendants

Barbara Arestegui  
Jeffrey Collman  
Sara Low  
Karen Martin  
Kathleen Nicosia  
Betty Ong  
Jean Roger  
Dianne Snyder  
Madeline Sweeney

## UNITED AIRLINES FLIGHT 93

### Flight Crew

Captain Jason Dahl  
First Officer Leroy Homer

### Flight Attendants

Wanda A. Green  
Lorraine G. Bay  
Sandra W. Bradshaw  
CeeCee Lyles  
Deborah A. Welsh

## AMERICAN AIRLINES FLIGHT 77

### Flight Crew

Captain Charles Burlingame  
First Officer David Charlebois

### Flight Attendants

Michele Heidenberger  
Jennifer Lewis  
Kenneth Lewis  
Renee May

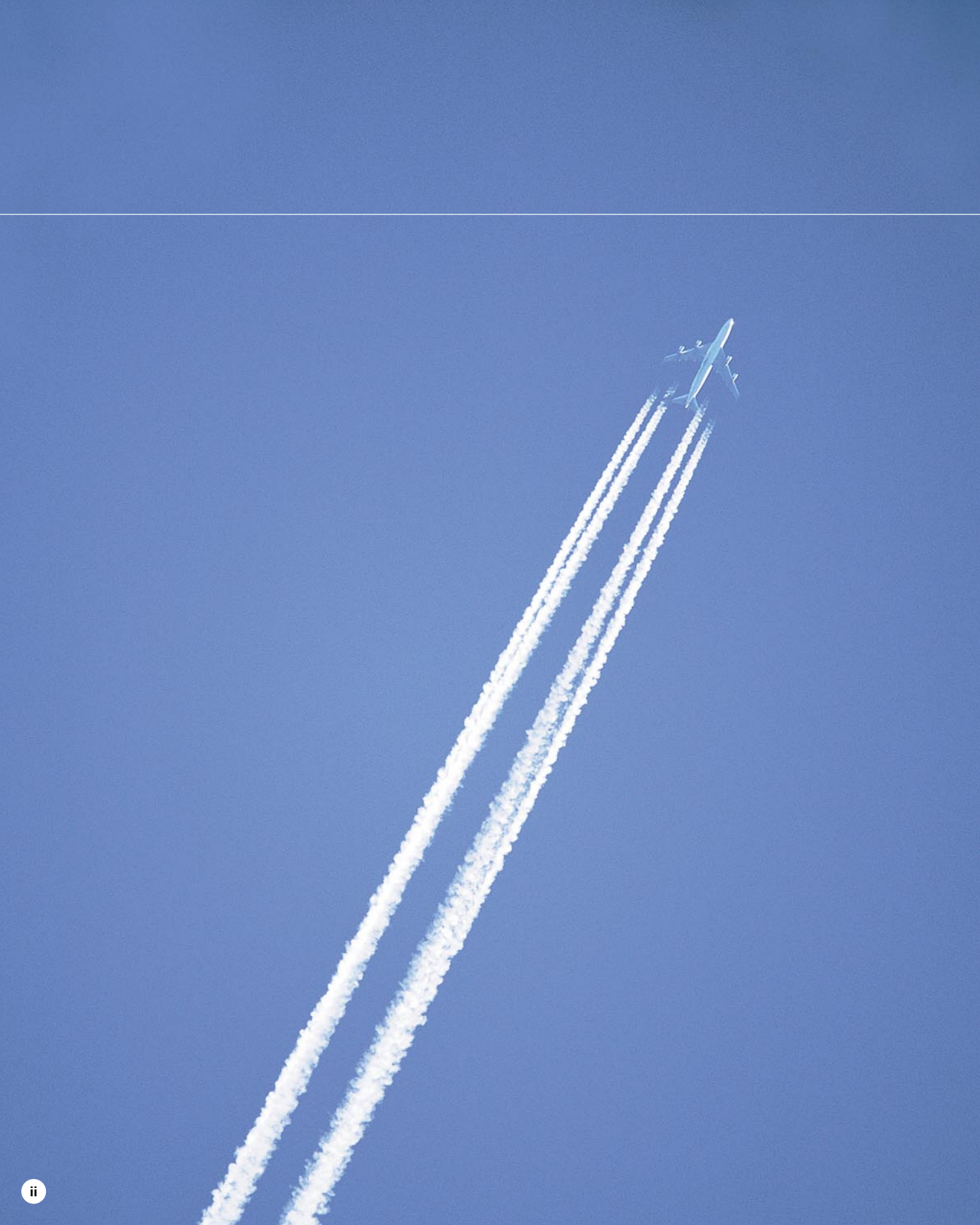
## UNITED AIRLINES FLIGHT 175

### Flight Crew

Captain Victor Saracini  
First Officer Michael Horrocks

### Flight Attendants

Robert J. Fangman  
Amy N. Jarret  
Amy R. King  
Kathryn L. Yancy LaBorie  
Alfred G. Marchand  
Michael C. Tarrou  
Alicia N. Titus



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# board members and staff

## BOARD MEMBERS



Francis J. Duggan,  
Chairman  
**Confidential Assistant:**  
Barbara Casey



Magdalena G. Jacobsen,  
Member  
**Confidential Assistant:**  
Joyce Beech



Ernest W. DuBester,  
Member (resigned)  
**Confidential Assistant:**  
Rachel Farris (retired)

## OFFICE OF THE CHIEF OF STAFF

Stephen E. Crable, Chief of Staff  
Benetta Mansfield, Deputy Chief of Staff  
James E. Armshaw, Public Information Officer (retired)  
Anita Bonds, Administrative Assistant (Mediation Support)  
Joyce Blackwell, Special Assistant to the Chief of Staff  
Ronald M. Etters, Director, Center for Advanced Study of Law and Dispute Resolution Processes  
Annie Kearney, Records Officer  
Eric Weems, Paralegal Specialist (Mediation Coordinator)

## MEDIATION/ADR

Lawrence E. Gibbons, Senior Mediator  
John Schrage, Senior Mediator (ADR)  
Patricia Sims, Senior Mediator

## Mediators:

Samuel Cognata  
Rich Frey  
Richard Hanusz  
Denise Hedges  
Thomas Ingles (retired)  
Zachery Jones  
Jack Kane  
Fred Leif  
John Livingood  
Gale Oppenberg  
Les A. Parmelee  
Laurette Piculin  
Linda A. Puchala

## REPRESENTATION AND LEGAL

### Hearing Officers:

Mary L. Johnson (Senior)  
Sean J. Rogers (Senior)  
Susanna Fisher  
Eileen M. Hennessey

### Staff:

Libby Angelopoulos, Paralegal Specialist  
Judy Femi, Freedom of Information Officer  
Robin Stein, Paralegal Specialist

## FINANCE AND ADMINISTRATION

June D. W. King, Chief Financial Officer/Chief Information Officer  
Cynthia Carver, Financial Operations Specialist  
Dontrell Harrison, Student Trainee  
Florine Kellogg, Administrative Support Assistant  
Grace Ann Leach, Lead Administrative Services Specialist  
Sharon Matthews, Travel and Accounting Assistant  
Janice Smith-Sphinx, Lead Finance and Purchasing Specialist  
Sharon Williams, Financial Operations Specialist (resigned)

## ARBITRATION

Roland Watkins, Director  
Carol Conrad, Lead Program Assistant  
Linda Gathings, Arbitration Assistant  
Carolyn Washington, Admin. Assistant  
Kimberly Ybanez, Arbitration Assistant

## PROGRAM DEVELOPMENT AND OUTREACH

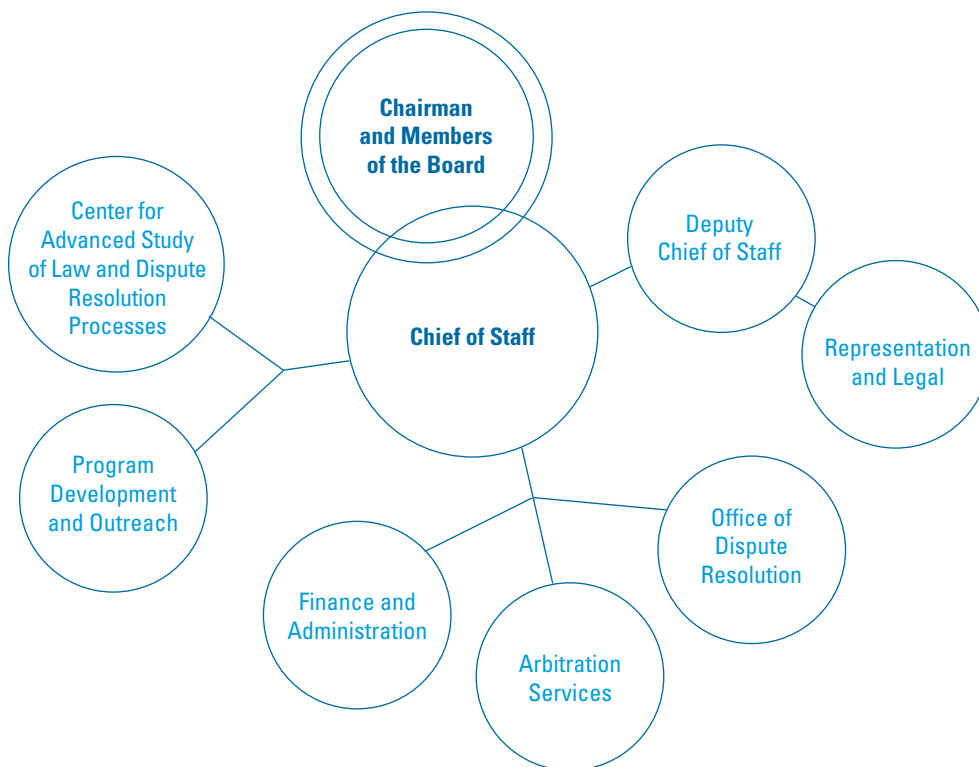
Daniel Rainey, Director  
Rachel Barbour, Mediation Research Specialist  
Donald West, Senior Research Analyst



# organization and structure

The National Mediation Board is comprised of three members appointed by the President with the advice and consent of the U.S. Senate. Terms of office are for three years, with the exception of members appointed to fill unexpired terms. Terms are staggered so that on July 1 of each year, one of the three terms expires. A member may stay in office after the expiration of his or her term until a successor has been appointed and enters office. No more than two members may be of the same political party. The Railway Labor Act requires that the Board annually designate one member to serve as its chair.

The Board is responsible for providing carriers and labor organizations with dispute resolution services in the railroad and airline industries. The Board's rail and air transportation customers include hundreds of airlines and railroads and dozens of labor organizations. These carriers employ more than 900,000 employees. The Board's jurisdiction also extends to hundreds of smaller certificated air carriers, commuters, and air taxis, including ambulance, sightseeing, commercial helicopter and certain airport, air freight and related services and their employees.



# mission statement

The National Mediation Board (NMB), established by the 1934 amendments to the Railway Labor Act (RLA) of 1926, is an independent agency performing a central role in facilitating harmonious labor-management relations within two of the nation's key transportation sectors, the railroads and airlines. Pursuant to the RLA, NMB programs provide an integrated dispute resolution process that effectively meets the NMB's statutory objective of minimizing work stoppages in the railroad and airline industries by securing voluntary agreements. The NMB's integrated processes are designed to promote three statutory goals:

- The prompt and orderly resolution of disputes arising out of the negotiation of new or revised collective bargaining agreements;
- The effectuation of employee rights of self-organization where a representation dispute exists, and;
- The prompt and orderly resolution of disputes over the interpretation or application of existing agreements.

In order to effectuate the purposes of the RLA, the NMB services are organized into three areas, corresponding to types of disputes handled by the Board: Mediation and Alternative Dispute Resolution (ADR), Representation, and Arbitration.



# financial statement FY 2001

In fiscal year 2001, the Congress appropriated \$10,400,000 for the agency's operations.

<b>Expenses and obligations:</b>	<b>2001 Actual</b>
Personnel compensation	\$6,182,315
Personnel benefits	892,518
Benefits for former personnel	(0)
Travel and transportation of persons	558,354
Transportation of things	23,617
Rent, communications and utilities	1,145,974
Printing and reproduction	75,063
Other services	867,440
Supplies and materials	116,331
Equipment	201,023
 Total Expended	 \$10,062,635
Unobligated Balance Expiring	\$337,365
<b>Total</b>	<b>\$10,400,000</b>





## THE RAILWAY LABOR ACT

# and the national mediation board functions

The Railway Labor Act (RLA) provides a comprehensive statutory framework for the resolution of labor-management disputes in the airline and railroad industries. Enacted in 1926 as a collaborative effort of labor and management, the RLA succeeded several previous federal statutes dating back to 1888. The 1926 Act provided for mandatory mediation and voluntary arbitration in contract negotiations, as well as for Presidential Emergency Boards (PEBs) to enhance dispute resolution. Key amendments to the Act in 1934 established the current three-member National Mediation Board and authorized the resolution of employee representation disputes by the NMB. In 1936, the RLA's jurisdiction was expanded to include the airline industry. The Act's most recent substantive amendment in 1981 permitted the creation of specialized Presidential Emergency Boards for disputes at certain commuter railroads.

The RLA has five “general purposes” (listed in the order specified by the Act):

- Avoid interruptions to interstate commerce in the airline and railroad industries;
- Ensure the right of employees to freely determine whether they wish to be represented for collective bargaining purposes;
- Ensure the independence of labor and management for self-organization to carry out the purposes of the Act;
- Provide for the prompt and orderly settlement of collective bargaining disputes; and
- Provide for the prompt and orderly settlement of disputes over the interpretation of existing collective bargaining agreements.

### MEDIATION AND ALTERNATIVE DISPUTE RESOLUTION

The RLA requires labor and management to make every reasonable effort to make and maintain collective bargaining agreements. Initially, the parties must give notice to each other of their proposals for new or revised agreements. Direct

bargaining between the parties must commence promptly and continue in an effort to resolve or narrow their differences. Should the parties fail to reach agreement during direct negotiations, either party, or the parties jointly, may apply to the Board for mediation. (An application for the NMB's mediation services may be obtained from the Board's web site at [www.nmb.gov](http://www.nmb.gov)). Following receipt of an application, the NMB promptly assigns a mediator to assist the parties in reaching an agreement. The Board is obligated under the Act to use its “best efforts” to bring about a peaceful resolution of the dispute. The NMB mediators apply a variety of dispute resolution techniques, including traditional mediation, interest-based problem solving, and facilitation to resolve the dispute.

If after such efforts the Board determines that mediation will fail to settle the dispute, the NMB advises the parties of that determination and offers interest arbitration as an alternative approach to resolve the remaining issues. If either party rejects this offer of arbitration, the Board promptly releases the parties from formal mediation. This release triggers a thirty-day cooling off period. During this

thirty-day period, the Board will continue to work with the parties to achieve a peaceful solution to the dispute. However, if an agreement is not reached by the end of the thirty-day period, the parties are free to exercise lawful self-help. Examples of lawful self-help include carrier-imposed working conditions or a strike by the union.

## INTEREST ARBITRATION

Interest arbitration is a process to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations. Although the RLA provides an effective process for interest arbitration, its use is not statutorily required. The NMB offers the parties the opportunity to use interest arbitration when the Board has determined that further mediation efforts will be unsuccessful. In addition, the parties may directly agree to resolve their collective bargaining dispute through interest arbitration. The NMB generally provides the parties with panels of potential arbitrators from which they select the individual to resolve the dispute. In some instances, the parties agree to arbitrate which allows the NMB to directly appoint an arbitrator. The interest arbitration decision is final and binding with very narrow grounds for judicial appeal.

## PRESIDENTIAL EMERGENCY BOARDS

The RLA permits the NMB to recommend to the President the establishment of a Presidential Emergency Board (PEB) to investigate and report on the dispute. A PEB also may be requested by any party involved in a dispute affecting a publicly funded and operated commuter railroad. While either of these emergency board processes is in progress, neither party to the dispute may exercise self-help.

## ADR SERVICES

In addition to traditional mediation services, the NMB also provides Alternative Dispute Resolution (ADR) services. ADR services include pre-mediation facilitation, training, and grievance mediation. The purpose of the Board's ADR program is to

assist the parties in learning and applying more constructive, less confrontational methods for resolving their disputes. Another goal is to help the parties resolve more of their own disputes without outside intervention. The Board believes that over time its ADR services will reduce and narrow the disputes which the parties bring to mediation.

## REPRESENTATION

Under the RLA, employees in the airline and railroad industries have the right to select a labor organization or individual to represent them for collective bargaining without "interference, influence or coercion" by the carrier. Employees may also decline representation. The RLA's representation unit is a "craft or class," which consists of the overall grouping of employees performing the particular types of related duties and functions. The selection of employee representatives for collective bargaining is accomplished on a systemwide basis, which includes all employees in the craft or class anywhere the carrier operates in the United States.

When a labor organization files an application with the NMB to represent employees, the Board assigns an investigator. [An application for a representation investigation may be obtained from the Board's web site at [www.nmb.gov](http://www.nmb.gov).] The investigator assigned to the case has the responsibility to determine if the craft or class the organization seeks to represent is system-wide and otherwise valid. The NMB's election procedures require that the application must be supported by a sufficient employee showing of interest to warrant continuing the investigation. Where the employees are not represented for collective bargaining purposes, a thirty-five percent showing is required. If the craft or class covered by the application already is represented and a collective bargaining agreement is in effect, the showing of interest requirement is a majority of the craft or class.

If the showing of interest requirement is met, the NMB continues the investigation, usually with a secret mail ballot election. Only employees found eligible to vote by the NMB are permitted to participate in the election. In order for a representative to be certified, a majority of the eligible voters must



cast valid ballots in support of representation. The Board is responsible for ensuring that the requirements for a fair election process have been maintained. If the employees vote to be represented, the Board issues a certification of that result which commences the carrier's statutory duty to bargain with the certified representative.

## ARBITRATION

The RLA provides for both grievance and interest arbitration. Grievance arbitration, involving the interpretation or application of an existing collective bargaining agreement, is mandatory under the RLA. The NMB has significant administrative responsibilities for the three grievance-arbitration forums in the railroad industry which are contemplated under the RLA: the National Railroad Adjustment Board (NRAB), Special Boards of Adjustment (SBAs) and Public Law Boards (PLBs). The NRAB and its four divisions have statutory jurisdiction over all rail carriers and all crafts and classes of railroad employees, SBAs are created by mutual agreement of the parties and PLBs enable the establishment of special boards of adjustment on individual railroads upon the written request of either party to a dispute. Grievance arbitration in the airline industry is accomplished at the various system boards of adjustment created jointly by labor and management. The Board furnishes panels of prospective arbitrators for the parties' selection in both the

airline and railroad industries. [A request to be placed on the NMB's Roster of Arbitrators may be obtained from the Board's web site at [www.nmb.gov](http://www.nmb.gov).] The NMB also has substantial financial management responsibilities for railroad arbitration proceedings in that it pays the salary and travel expenses of the arbitrators. Arbitration decisions under the RLA are final and binding with very limited grounds for judicial review.

## NMB – GMU CENTER INITIATIVE

As part of its efforts to build a public and private partnership to advance more effective dispute resolution, the NMB established a Center for Advanced Study of Law and Dispute Resolution Processes. This center was chartered by the George Mason University in July 2000 as a collaborative educational effort among the NMB, GMU's Institute for Conflict Analysis and Resolution and its School of Law.

During FY 2001 the Center was active as a host for industry meetings involving representatives from airline and railroad carriers and unions, development of dispute resolution courses, and development of an internship program. A national conference planned by the Center for October, 2001, was cancelled due to the impact of the September 11 terrorist acts. (A full description of the Center's programs can be found on its web site at [www.law.gmu.edu/drc/](http://www.law.gmu.edu/drc/)).





## FY 2001 RESULTS:

# mediation and alternative dispute resolution (ADR)

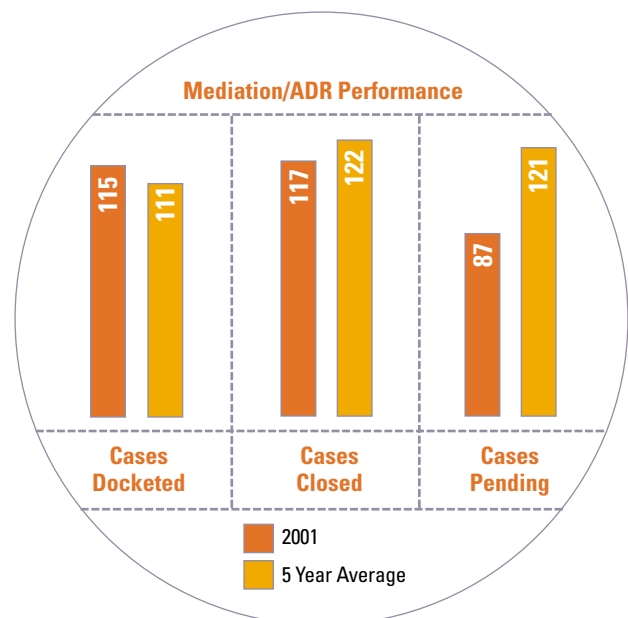


The National Mediation Board's Mediation and Alternative Dispute Resolution programs delivered outstanding service to the airline and railroad industries, and to the public, throughout 2001. In a year that featured great turmoil in the industries, an economic down turn and terrorist attacks, the Board's mediators handled case after case in a steady and reliable manner. As the customer service figures will show, 2001 was very successful. More important, the Board's performance reinforced the stability of the mediation process and the reliability of its approach to labor-management disputes.

It is important to note that the NMB's performance relative to its customer service goals may vary from year to year for reasons beyond the control of the Agency. The NMB's overriding responsibility is to manage mediation cases effectively, aiming for voluntary agreements without work stoppages. To that end, the NMB does not blindly adhere to the constraints of customer service goals in any mediation case in which a party's tactics are inconsistent with the RLA's direction to exert all reasonable efforts to make and maintain agreements.

FY 2000 was a very successful year for the NMB. FY 2001's mediation and ADR case intake and closure rates continue that success.

Compared to the established five year averages (1996-2000), FY 2001 was a very busy year, with a remarkable rate of case closure, and a reduced number of cases carried into the new fiscal year.



The five-year average of New Cases Docketed is 111 cases. In FY 2001 the Board docketed 115 new cases, exceeding the five-year average by 15 percent. Even with the heavy work load in FY 2001, the Board's mediators closed 117 cases, compared to the five-year average of 122 cases. As a result of the Mediators' high productivity, cases pending at year end decreased to 87, 28 percent lower than the five-year average of 121 cases.

The contentious environment which marked collective bargaining in the airline industry during FY 2001 may explain a slight change in the mix of new cases, lowering the percentage of ADR cases to 45% of the new case load. There were 70 new mediation cases and 45 new ADR cases during FY 2001.

The Board met or exceeded its customer service goals in all of the established customer service standards during FY 2001. In the areas of timely docketing of cases, assignment of mediators, initial contact with the parties, and establishment of the first mediation session, the Board succeeded in meeting its goals more than 95 percent of the time. In addition, the NMB adopted two new mediation goals in FY 2001. The Board established a goal of reaching agreements after no more than 45 days of mediation meetings, and a goal for reaching agreements within 365 days of case docketing. The Agency achieved a 92 percent success rate on the former goal and a 59 percent success rate on the latter goal. If cases docketed before the new goals became effective in FY 2001 are excluded from the equation, the Board achieved an even higher rate of success.

## HIGHLIGHTS DURING FISCAL YEAR 2001

In FY 2001, the railroad industry experienced lower overall profitability and the airline industry suffered widespread losses even prior to the September 11th terrorist attacks. Continuing high fuel prices increased costs, and a slowing economy lowered revenue in both industries. Airline labor costs rose dramatically as new contract settlements covering United Airlines pilots, Northwest Airlines mechanics, and Delta Airlines pilots reverberated through the industry. Labor disputes at several air carriers lowered profitability and hindered operations. During

the year, Trans World Airlines, Midway Airlines, National Airlines and Legend Airlines initiated Chapter 11 bankruptcy proceedings. Capacity trended down across the industry, fares fell, and business travelers stayed at home. As the year ended its third quarter, any prospects for a quick recovery were dashed by the events of September 11th.

By contrast, the rail industry did not experience the same level of volatility. Profits softened for the freight railroads, but labor disputes did not disrupt operations or significantly lower profits. The National Carrier Conference Committee (NCCC) reached a national agreement with the Brotherhood of Maintenance of Ways Employees (BMWE). The membership ratified the agreement, without a cooling off period or a President Emergency Board, the usual staples of rail negotiations. A tentative agreement reached between the NCCC and the United Transportation Union (UTU) remained unrati-fied. The NCCC and UTU reexamined the tentative agreement in light of industry developments, most notably the proposed but failed merger agreement between UTU and the Brotherhood of Locomotive Engineers (BLE). Amtrak pursued its goal of oper-ating sufficiency by 2003, struggled to obtain suffi-cient capital investment to improve its services, and introduced new high speed rail service, the Acela, in the Boston, New York and Washington, D.C. markets. With most of its labor agreement open for negotia-tions, Amtrak will present a challenge to the Board's mediators for FY 2002.

## COOLING-OFF PERIODS AND SELF-HELP ACTIVITY

FY 2001 saw an unprecedented number of major airline disputes occurring nearly simultaneously. Since the parties determine the amendable dates of collective bargaining agreements, the NMB has limited ability to affect the confluence of these disputes. The bargaining demands of airline unions seeking a larger share of record industry profits over the last few years put contract negotiations in the newspapers and on the national news. Each successive negotiation became an opportunity for unions to establish a new "industry leading" agree-ment. These events challenged the Agency's Board



Members and staff to resolve multiple, complex disputes without work stoppages. Early in his term, President Bush took an aggressive stand on the possible adverse effects of strikes on the economy, and the Presidential Emergency Board (PEB) reemerged as a high-profile tool for bringing agreements to closure.

A dispute between Northwest Airlines and its mechanics, represented by the Aircraft Mechanics Fraternal Association (AMFA), typified the changing environment. After many months of negotiations and unsuccessful mediation, the NMB released the parties into a 30-day cooling off period. At the outset of the cooling off period, President Bush announced his intention to appoint a PEB if the dispute was not settled by the end of the thirty-day period. The parties failed to reach agreement, and the President appointed a PEB on March 9, 2001. The parties ultimately reached agreement in April with the aid of the NMB, after PEB hearings, but before the PEB presented its recommendations to the President.

In February, Delta Airlines and its pilots, represented by the Airline Pilots Association (ALPA), jointly requested a release from the NMB. The NMB proffered arbitration, which was refused by the parties, and a thirty-day countdown began. Talk of a PEB dominated the headlines, but the parties reached an agreement without Presidential intervention before the end of the cooling off period.

After a difficult negotiation, American Airlines and the Association of Professional Flight Attendants (APFA) reached agreement in June, just before the end of a cooling off period. The President did not create a PEB in the American/APFA dispute, but the possibility of Presidential intervention loomed and was influential throughout the final talks.

Regional carriers also faced difficult negotiations during this fiscal year, as unions tried to reduce the pay and work rule gap between the regional and major carriers. Pilots at Comair, represented by ALPA, rejected two tentative agreements and struck for 89 days before ratifying an agreement reached with the assistance of the NMB. The President did not intervene or threaten to intervene in this dispute.

Air Wisconsin and ALPA faced a cooling off period in August. The parties reached a settlement near the end of the countdown, and the pilots subsequently ratified the agreement.

Piedmont and the Association of Flight Attendants (AFA) entered a cooling off period in August and reached an agreement in September without a work stoppage.

Northern Air Cargo and its flight deck crew members, represented by the International Brotherhood of Electrical Workers (IBEW), went to a strike deadline in September and reached no agreement. No self-help or strike activity occurred.

As previously noted, collective bargaining in the rail sector experienced a year of relative calm. The Board proffered arbitration in only two cases (Reading Blue Mountain Railroad/UTU, and the New Orleans Public Belts Railroad/UTU). The Blue Mountain Railroad dispute resulted in no resolution. The UTU did not strike, and Blue Mountain Railroad did not engage in self-help. The New Orleans Public Belt Railroad and UTU reached an agreement without self help.

## SETTLEMENTS

The increased number of cooling off periods needed to bring parties to agreement notwithstanding, voluntary settlements without strikes or other forms of self-help continued to be the norm. Overall in FY 2001, the Board closed 60 of 65 (92%) of railroad and airline mediation cases during the year by voluntary agreement, without a cooling off period, and a remarkable 63 of 65 (97%) cases by voluntary agreement without a strike or other legal self-help. The list of air carriers and organizations which reached agreements with the Board's assistance but without an economic confrontation is significant: Southwest Airlines/Transport Workers Union of America (TWU) (Fleet Service), Midway Airlines/International Association of Machinists (IAM) (Fleet Service), Allegheny Airlines/International Brotherhood of Teamsters (IBT) (Mechanics), Island Air/IAM (Fleet Service), Hawaiian Air/ALPA (Pilots), Champion Air/IBT (Flight Attendants), Liat Caribbean Air/IAM (Passenger Service), and Air Trans International/IBT (Pilots).

American Airlines and TWU reached agreements covering mechanics, fleet service and several other crafts, without the need for mediation but with some assistance from the NMB's facilitation program.

In the rail industry, the NMB helped the parties reach agreements on the national level as well as among the short line and regional railroads. These successes included NCCC/BMWE, Union Railroad/United Steelworkers of America (USWA), Iowa Interstate Railroad/BMWE and UTU, GTW Railroad/BMWE, E J & E Railroad/UTU, and Terminal Railroad/UTU.

Additionally, the Commuter railroads (New Jersey Transit, Metro North, Southeastern Pennsylvania Transportation Authority (PATH), Northern Indiana Commuter Transportation District, and Port Authority Transportation Hudson) brought the latest round of bargaining to closure with agreements involving BLE, Metro North/Brotherhood of Railroad Signalmen (BRS) and PATH/UTU.

## ADR SERVICES

During FY 2001, the Board made significant progress in moving parties toward more constructive dialogue through its training, facilitation and grievance mediation services. The Board provided training and facilitation services to major and regional airlines, class 1 and regional railroads, and the unions representing airline and railroad employees.

In several cases, such as the ones listed below, the parties' commitment to a more constructive relationship, and the ADR services provided by the Board, resulted in tentative agreements without the need for mediation. These cases include Hawaiian Airlines and AFA (flight attendants), Frontier Airlines and TWU (flight dispatchers), Atlantic Coast and ALPA (pilots), Executive Jet and IBT (pilots), and Arrow Air and Arrow Pilots Association (ARWPA) (pilots).

Executive Jet and IBT reached agreement using interest based bargaining in only three months, while Frontier and TWU reached an agreement for a first contract using the same process in only eight months. It is not unusual for the parties to spend two to three years negotiating initial contracts in the airline industry.

Other airlines which availed themselves of the Board's Interest Based Bargaining (IBB) services included America West/ALPA (pilots), Continental and Continental Express Airlines/ALPA (pilots), Continental/IAM (flight attendants), Hawaiian Airlines/AFA (flight attendants), PSA/ALPA (pilots), Skyway Airlines/ALPA (pilots), Spirit Airlines/AFA (flight attendants), Sun Country/ALPA (pilots) and US Airways/Communication Workers of America (CWA) (Passenger Service).

While ADR services have not been as readily accepted in the railroad industry, the Board continues to make inroads through various forums, including the Wage and Work Rule panel established by the UTU and the NCCC, and on-property presentations. Significant efforts in the railroad area include the use of IBB to facilitate contract bargaining with the BNSF/American Train Dispatchers Department (ATDD), CSX/ATDD, CSX/UTU (dispatchers and yardmasters), and BNSF/BRS (facilitating negotiation on work/rest issues).

## GRIEVANCE MEDIATION SERVICES

In addition to training and facilitation services associated with Section 6 bargaining, the Board provided training and grievance mediation services which resulted in a reduction of the number of



cases going to arbitration or the bargaining table. The carriers and unions involved in grievance mediation include American Eagle/AFA (flight attendants), Atlantic Southeast Airlines (ASA)/ALPA (pilots), BNSF/UTU (conductors), Continental Airlines/ALPA (pilots), CCAir/AFA (flight attendants), Hawaiian Airlines/ALPA (pilots), Express Air/ALPA (pilots), DHL/ALPA (pilots), Midway/ALPA (pilots), Port Terminal Railroad/UTU (conductors), Union Pacific Railroad/UTU/BLE/BMWE (conductors, engineers, track workers), and Canadian Pacific (Soo Line)/UTU (conductors).

Four cases are representative of the success experienced in grievance mediation. The Port Terminal/UTU facilitation resolved 43 of 63 grievances and left one issue unresolved. The Soo Line/UTU grievance mediation resolved 500 grievances, involving \$600,000 in potential liability to the carrier and resulting in cost savings to the government of approximately \$750,000. In the DHL/ALPA case, the parties resolved all of the 70 grievances submitted to grievance mediation. Hawaiian/ALPA resolved 31 of 33 grievances, and are still discussing resolution of the other two issues.

With an eye toward greater success next year, the Board revised a pilot grievance mediation project involving UTU and the NCCC. By offering grievance mediation services at a much earlier stage in the grievance process, the NMB hopes to settle more grievances before they enter the formal dispute resolution process. If effective, this project may allow the Agency to save money and speed the resolution of grievances.

## REGULATORY AND CONGRESSIONAL DEVELOPMENTS

Flight delays, cancellations, and mergers dominated the regulatory environment. Proposed legislation would give carriers a limited antitrust exemption, allowing competing carriers to discuss over-scheduling during peak periods or weather disruptions in order to reduce delays. The Federal Aviation Administration (FAA) sought ways to expedite the building of new runways, and sought a longer term solution to flight congestion and delays. Other proposed legislation sought to deal with congestion

and delays by enhancing competition in airline hubs, increasing DOT oversight of airline mergers and raising the mandatory retirement age for pilots from age 60 to age 62. Orbitz, the airline-owned web-based travel agency, began operation in February with the aim of reduced ticket counter congestion. The Air Transport Association (ATA) offered, on behalf of its members, to add more customer service protections to the contract of carriage contained in airline tickets. The ATA initiative included a limited right for passengers to sue a carrier which did not meet the customer service protections specified by the ticket "contract." This proposal came in the context of potential legislation mandating expanded passenger service guarantees.

American Airlines (AA) and British Airways (BA) discussed prospects for seeking antitrust immunity for a less comprehensive alliance than the one proposed several years ago. Delta joined with Air France, Alitalia, and CSA Czech Airlines in seeking DOT immunity for a new SkyTeam alliance. At year end, both requests remained pending. In August, the Department of Justice (DOJ) announced it would oppose United Airlines' acquisition of US Airways, effectively killing the deal. American bought TWA, saving TWA from possible liquidation in bankruptcy, and the DOJ did not oppose the transaction. Northwest Airlines and Continental Airlines continued their alliance, and a DOJ lawsuit resolved when Northwest and Continental reached an agreement allowing Continental to buy back investments previously made in Continental by Northwest.

The Surface Transportation Board (STB) issued new regulations which, by consensus, raised the bar for STB approval of rail mergers and focused on encouraging competition. After adoption of the regulations, the STB gave an apparent green light to the acquisition of Wisconsin Central Railroad (WC) by Canadian National Railroad (CN). The American Association of Railroads and all major rail unions reached an agreement on "cram downs" which was enacted into law as part of the STB re-authorization. Finally, the House approved a bill amending the Railroad Retirement Act which improved benefits, adjusted carrier and employee contribution rates and allowed private investment of a portion of the railroad retirement funds. This House bill

tracked a bill passed by the House during the previous year. Both railroads and unions supported the legislation, but by year end, the Senate had taken no action on a similar Senate bill.

## UNION AFFAIRS

Two major union mergers occurred during the year. The Independent Association of Continental Pilots agreed to merge into ALPA, and Continental pilots approved the merger. Upon transfer of bargaining rights to ALPA, ALPA represented Continental pilots for the first time since Continental's pre-bankruptcy days. Insiders speculated about possible re-affiliation of the Federal Express Pilots Association and the Allied Pilots Association with ALPA. By year end, neither reaffiliation had occurred.

In the rail industry, the UTU and the BLE reached an agreement to merge the two unions. Subsequent to the end of FY 2001, the BLE members voted against the merger ending any prospect for affiliation between UTU and BLE.

The battle between the IAM and the Airline Mechanics Fraternal Association (AMFA) continued to rage, with AMFA falling short of the number of authorization cards needed for an election at United Airlines.

The Association of Flight Attendants filed a representation application covering Delta Airlines flight attendants, the only major flight attendant group not represented by a union.

## CENTER FOR ADVANCED STUDY OF LAW AND DISPUTE RESOLUTION PROCESSES

In July 2000, the NMB co-founded, along with the George Mason University School of Law and GMU's Institute for Conflict Analysis and Resolution, the Center for Advanced Study of Law and Dispute Resolution Processes (Center). The purpose of the Center is to provide specialized education in the law and practice of dispute resolution, with current priority given to labor-management disputes in the airline and railroad industries. A number of educational programs, including conferences, seminars, workshops and internships are offered or sponsored by the Center to advance alternative dispute resolution approaches.

In August 2001, the Alliance for Education in Dispute Resolution admitted the Center as an Alliance member. The Alliance includes nine other institutions with nationally recognized ADR programs, including Ohio State, UCLA, Cornell, and Pepperdine.

In FY 2001, the Center planned the Airline and Railroad National Labor-Management Conference, which was scheduled for October, 2001, in Washington, D.C. More than thirty leaders and experts in the dispute resolution field would have spoken at the conference, but due to the terrorist attacks of September 11, and the ensuing chaos in the industries, the conference was cancelled. During FY 2002, the Center will cosponsor the American Law Institute-American Bar Association's Seminar on Airline and Railway Labor Law, and will offer internships and short format, low cost training. Information regarding the Center is available on the NMB's home page ([www.nmb.gov](http://www.nmb.gov)) as well as the Center's web site ([www.law.gmu.edu/drc/](http://www.law.gmu.edu/drc/)).

## PENDING CASES

As the year ended, several large airline and railroad cases remained unresolved. American Airlines and its mechanics, represented by the TWU, awaited the results of a ratification vote on a new contract. American and TWU remained in direct negotiations in a dispute covering fleet service and other employee groups. United Airlines and its mechanics, fleet and passenger service employees, represented by the IAM, remained in the late stages of mediation. The NCCC, representing Class 1 freight railroads, had mediation cases pending with the BRS, Transportation Communications International Union (TCU), International Brotherhood of Boilers and Blacksmiths (IBB&B), Sheetmetal Workers International Union of America (SMWIA), and the IAM. Other significant pending cases included America West Airlines and IBT (covering fleet services employees), American West Airlines and ALPA (pilots), and AMTRAK and IBEW, BMW, IBB&B, IAM, and the SMWIA.



## FY 2001 RESULTS:

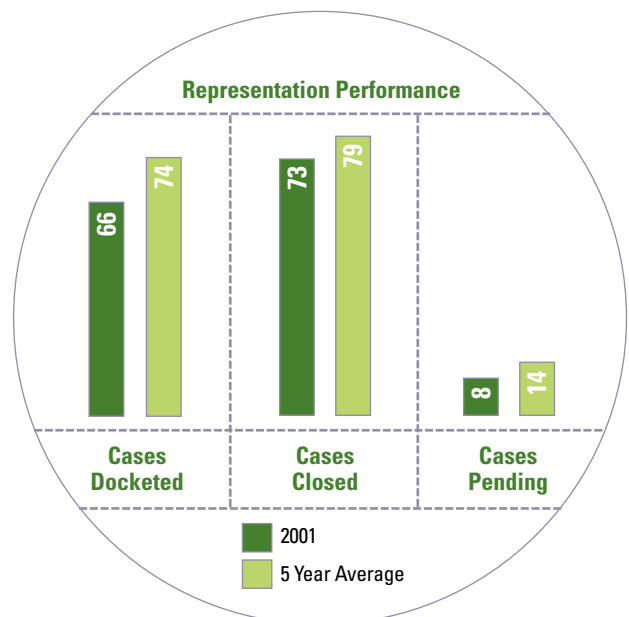
# representation



During FY 2001, the National Mediation Board's Representation staff continued to operate at a high level of quality and efficiency. As a comparison of representation performance goals and actual performance will attest, the Board's Representation program is constantly improving and delivering outstanding services to the parties and the public.

The Representation staff closed more cases than it received during the year (73 closed; 66 received). This pattern of case intake, closure, and volume is consistent with the five-year average of case activity. As a result of this productivity, the Agency had fewer than 10 "old" cases pending at the end of FY 2001, none of which was older than 180 days. Moreover, the number of cases pending at the end of FY 2001 (8) is substantially less than for FY 2000 (15) and the five-year average (14). With the Agency resources requested for FY 2003, it is projected that cases will continue to be investigated and resolved at this same pace over the next several fiscal years.

The NMB successfully met all of the standards set for representation cases under its FY 2001 Annual Performance Plan. Cases are managed using nine benchmarks covering the key phases of the Agency's investigation: Response to representation applications, Investigator assignment, Showing of interest determination, Timely response following ballot count, Overall timely resolution, Board decision regarding interference, Timely resolution of predocketing investigations, Prompt resolution of jurisdictional referrals



from the National Labor Relations Board (NLRB), and Issuing Board level decisions within 35 days after receiving a staff recommendation.

Four of the Representation customer service standards were established for FY 2001.

1. Board decisions involving allegations of interference will be issued within 270 calendar days of docketing. Target: 80%. Actual Performance: 75% (3 of 4 cases).
2. Predocketing investigations will be completed within 180 calendar days following the Investigator's assignment to the case. Target: 80%. Actual Performance: 100%.
3. Jurisdictional opinions will be provided to the NLRB within 180 days from the date the jurisdictional referral from the NLRB headquarters is assigned to an Investigator. Target: 80%. Actual Performance: 100%.
4. The Board will endeavor to issue a decision within 35 days after receiving a staff recommendation. Target: 80%. Actual Performance: 100%.

The agency successfully met all of its other goals for timely case processing during FY 2001. In particular, the Board responded to representation applications within three business days in 100 percent of all cases; assigned an Investigator to representation cases within five business days in 100 percent of all cases; determined there was a sufficient showing of interest to authorize an election or dismiss a case within 45 calendar days in 100 percent of all cases; issued certifications or dismissals within three business days of ballot counts in 100 percent of all cases; and completed representation investigations within the 90-calendar day goal set for non-appellate cases in 100 percent of all cases.

Apart from timely case handling activity, the Representation and Legal Department accomplished several other projects intended to improve customer service. During the year, the Agency updated the Board's Representation Manual by inserting a new Section (Section 19) setting forth the Board's Merger Procedures and amending Section 6.601 to allow the use of authorizations in merger procedures. The Representation and Legal staff began a review of the entire Representation

Manual to update and clarify the language. The Board expects to issue a new Representation Manual during FY 2002. Finally, the Agency extensively updated and expanded the "Frequently Asked Questions: Representation" on the NMB website. This effort allows the NMB to provide the public more information with no additional staff time.

## HIGHLIGHTS DURING FY 2001

Under the RLA, the selection of employee representatives for collective bargaining is accomplished on a system wide basis. Due to this requirement, and the employment patterns in the airline and railroad industries, the Board's representation cases frequently involve numerous operating stations across the nation. In many instances, labor and management raise substantial issues relating to the composition of the electorate, jurisdictional challenges, allegations of election interference, and other complex matters which require careful investigations and rulings by the NMB.

Representation disputes involving large numbers of employees generally are more publicly visible than cases involving a small number of employees. However, all cases require and receive neutral and professional investigations by the Board. The NMB ensures that the employees' choices regarding representation are made without interference, influence or coercion. The case summaries that follow are examples of the varied representation matters which were investigated by the NMB during FY 2001.

### Aeromexico/IAM

The IAM filed an application to represent Aeromexico Passenger Service Employees. The July 25, 2000, count of ballots established that less than a majority of eligible employees voted for representation. The IAM then filed election interference allegations. The IAM claimed that from the time Aeromexico first learned of IAM's organizing campaign, the Carrier commenced a systematic program to influence and interfere with the employees' free choice of a representative by granting and/or threatening to withhold benefits. The IAM also asserted that the Carrier tainted labo-





ratory conditions by systematically intimidating, harassing, and interrogating IAM supporters. The IAM also claimed that Aeromexico held many improper mandatory meetings with employees. The Board's investigation established that in response to the IAM's allegations of election interference, Aeromexico had one-on-one meetings with employees. At these meetings, the Board found that employees were interviewed, intimidated, and forced to sign affidavits in support of the Carrier's defense against the IAM's allegations of election interference. Based on the totality of the circumstances, the Board found that the laboratory conditions required for a fair election were tainted. This conclusion was based on one-on-one meetings with employees, mandatory Town Hall meeting and video presentations, misrepresentation of Board procedures, and post-election interviews with employees. Therefore, the Board conducted a rerun election using a Laker ballot. The IAM was successful in the rerun election and was certified to represent the Aeromexico employees.

#### **Terminal Railroad of St Louis/UTU/BLE**

Following the ruling of a three-member panel of prominent labor relations professionals that conditions at Union Pacific did not support a finding that a single craft or class of Train and Engine Service Employees was appropriate, the UTU filed a representation application for the combined craft or class of Train and Engine Service Employees on Terminal

Railroad (TRRA). The BLE, which represented the Engineers on TRRA challenged the application, and sought to retain the division of employees into two crafts or classes. TRRA is a small non-Class I railroad and operates approximately 200 miles of railroad track in Missouri and Illinois with an operating radius of 10 miles. It employs approximately 125 operating employees. The Board concluded that, based upon the facts in this case, the mandatory line of progression from train service to engine service, the regular ebb and flow of employees from train service to engine service, and the similarity of working conditions and job functions, the combined craft or class of Train and Engine Service Employees is appropriate. Member DuBester dissented from the Board's ruling. On the same day that the Board issued its Ruling on TRRA, the Board also issued a ruling affirming its decision to accept the panel's recommendation regarding Union Pacific Railroad.

#### **Express One International/IBT/EOCA**

On February 1, 2001, the Express One Crewmembers Association (EOCA) filed an application for the Flight Deck Crew Members of Express One International (Express One). These employees were already represented by the IBT, which was certified as the representative on August 6, 1998. In response to the application, the IBT asked the Board to toll the two-year certification bar in this case because, following Board certification, Express One refused to bargain and filed a lawsuit against the IBT and



the Board. The IBT also stated that Express One had not begun to bargain until July 6, 2000, when the U.S. District Court denied the Carrier's motion for a stay of an order directing Express One to bargain. Based on a prior decision in *Virgin Atlantic Airways*, 21 NMB 183 (1994), the Board ruled that Express One's actions, including its refusal to bargain, rendered the Board's certification ineffectual and, therefore, concluded that the two-year certification bar commenced on July 6, 2000, the date the District Court denied Express One's motion for a stay and the Carrier began to bargain.

#### **Emery Worldwide Airlines/IBT**

This case was referred from the National Labor Relations Board (NLRB) for an advisory opinion as to whether certain work performed by employees of Emery Worldwide Airlines (EWA) fell within the Railway Labor Act (RLA) jurisdiction. In 1997, EWA entered into a contract to provide for the sorting and delivery of two-day priority mail with the United States Postal Service. In order to do this, the contract required EWA to establish ten Priority Mail Processing Centers (PMPCs) on the East Coast. The International Brotherhood of Teamsters filed petitions with the NLRB to represent the truck drivers, CART operators and sorters at two PMPCs.

Because of the complexity of the case, the NMB conducted an evidentiary hearing. On January 9, 2001, the Board issued a decision responding to the NLRB, stating that while EWA when operating as a

"carrier" is subject to the RLA, its PMPC operations are not subject to the RLA. The Board noted in particular that the employees working at the PMPCs operated out of a separate location from the other EWA "carrier" employees; that the PMPCs had separate management and operations; and that the PMPC employees did not interact with other employees. On March 23, 2001, the Board denied EWA's motion for reconsideration.

#### **United Airlines/IAM/AMFA**

AMFA filed a representation application for the Mechanics and Related Employees on United Airlines. At the time of the filing these employees were represented by the IAM. In its representation application AMFA estimated the number of eligible employees to be 15,076 employees. The IAM submitted information that certain positions were currently not included in the craft or class but should be included (for example, if the IAM sought the accretion of the positions). The Board's investigation established that there were more than 1,000 additional individuals who should be included on the list of potential eligible voters. AMFA did not submit a sufficient number of valid authorization cards to meet the Board's showing of interest requirements. Therefore, AMFA's application was dismissed.



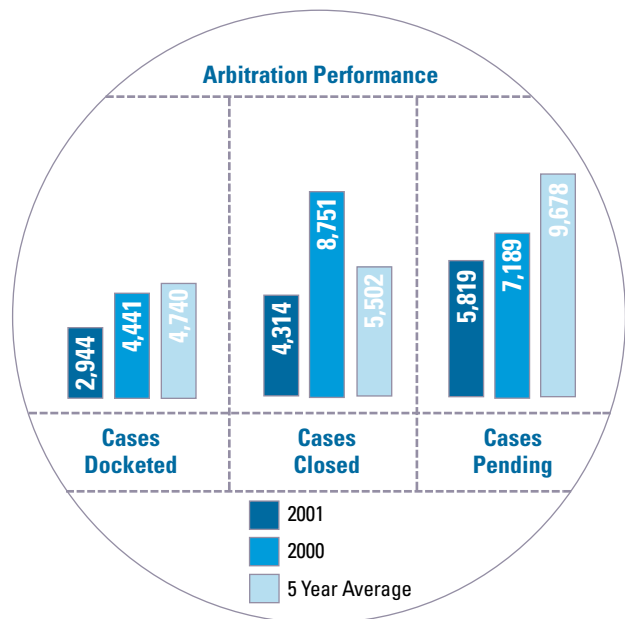
## FY 2001 RESULTS: arbitration



During FY 2001 the National Mediation Board's Arbitration program demonstrated remarkable creativity and productivity. The amount of time it routinely takes to process cases was cut, billing and financial systems were streamlined and improved, and the number of cases pending at the end of the fiscal year was reduced to the lowest level in three decades.

### OVERVIEW OF FISCAL YEAR 2001

The level of grievance activity handled through the Board's Arbitration program has been directly affected by the recent round of national collective bargaining among the major freight railroads and the rail organizations. Until the bargaining is concluded, there will be unresolved contract administration issues which are addressed through the Section 3 grievance process. However, it is anticipated that several issues which have given rise in the past to numerous grievances will be handled and resolved in this round of negotiations. For example, in August 2001, NMB mediators provided grievance mediation and facilitation training to negotiating representatives for the Union Pacific Railroad and the Brotherhood of Locomotive Engineers. Across the rail industry, the parties are considering establishing grievance mediation as a regular step in the grievance process. This should lead to a decrease in the number of grievances progressing to arbitration.





During FY 2001, the parties brought 34 percent fewer cases to arbitration (2,944 cases compared to 4,441 cases in FY 2000). In FY 2001 4,314 cases were closed (compared to 8,751 in FY 2000), leaving 5,819 cases pending at the end of the year. This reduction in impending cases represents a 19 percent reduction from the previous year's figure of 7,189, and represents a 40 percent reduction from the five-year average of 9,678.

At the start of the fiscal year, the NMB began monitoring case loads and authorizations to encourage arbitrators to issue awards within 180 days of hearing dates. The goal of the NMB was to achieve this result in 90 percent of all cases. However, the lack of an appropriation until the end of the first quarter significantly affected the NMB's ability to reach this goal. Even with this impediment, awards were issued within 180 days in 71 percent of all cases during FY 2001.

During this same period, the NMB began a project to reduce the average length of time between the hearing of cases and decisions at the National Railroad Adjustment Board by at least 5 percent for the year. The baseline for this performance standard was set as the average number of days between hearing and decision during the first quarter of FY2001 (374 days). During the second quarter decisions were issued in an average of 197 days, a reduction of 47.3 percent from the baseline. Third quarter decisions were issued in an average of 177 days, or 52.6 percent sooner than the baseline. The fourth quarter showed even more improvement, with an average of 107 days between hearing and decision, and a 71.3 percent reduction from the baseline. For the last three quarters of the year the average between hearing and decision was 160 days, a yearly reduction of 57.2 percent from the baseline. The average number of days between hearing and decision for the entire year, including

the first quarter baseline, was 214 days. As these figures show, the NMB's effort in this area was remarkably successful.

At the beginning of the fiscal year, the NMB was able to finalize the transfer of all Arbitration Services caseload data from the old case tracking system to the new case management system. The result was an adjustment in pending cases which reflects the actual cases pending at the beginning of this fiscal year. The adjustment resulted in an additional 262 cases in the "pending" category.

In FY 2001, the Arbitration Department and the Finance and Administration Department cooperated to meet the NMB's arbitration performance goal by reimbursing arbitrators within 10 business days 94 percent of the time. This performance standard will be revised for FY 2002 and FY 2003 to provide reimbursement within three business days.

## HIGHLIGHTS DURING FY 2001

At the start of this fiscal year, the Board met with the Section 3 Committee, a group of representatives from freight, regional, and commuter railroads, and representatives of major rail organizations, with the goal of reviewing the Board's Section 3 caseload and administrative procedures. The Section 3 Committee and the NMB created a subcommittee that cooperatively explored changes in Section 3 procedures. Several new initiatives, as well as refinements of projects already in progress, emerged from the NMB's work with the Section 3 groups.

### Annual Case Audit

In November 2000, the Board conducted its annual audit of all cases pending before public law boards and special boards of adjustment. The agency provided the National Railway Labor Conference, Section 3 Committee members, commuter railroads,



regional railroads and all labor organizations representing railroad employees with a list of pending cases on these boards. The Board asked the parties to report any discrepancies between its records and the agency's records. The same audit procedures were extended to the National Railroad Adjustment Board (NRAB). All of the carriers and the rail organizations as well as the NRAB responded to the audit. This 100 percent participation ensures the accuracy of the NMB's arbitration case management information system.

#### **Grievance Mediation in the Railroad Industry**

The NMB actively promoted grievance mediation as an alternative means of dealing with grievances in the railroad industry. One such effort involved the UTU, which represents the largest number of employees in the railroad industry. An agreement between the major freight railroads and the UTU established a pilot project that makes grievance mediation a routine option for each new public law board created. The NMB also engaged in grievance mediation on a board involving the Port Terminal Railroad Association. Of the original 63 grievances set for arbitration, the NMB helped the parties resolve 43 of them, and the NMB worked with the parties to revise their grievance proce-

dures so that grievance mediation can be utilized earlier in the grievance process. It is anticipated that this work will reduce the number of grievances progressing to arbitration.

#### **Improving the Quality of the Arbitrators Roster**

In August 2000, the NMB commenced a project to improve the quality of the Roster of Arbitrators. The objective of the project was to compile a roster of individuals who are actively engaged in the arbitration of disputes. Those individuals who were not active in the resolution of disputes in any sector were removed from the roster. The project resulted in the elimination of 240 individuals from the roster, leaving a group of 484 highly qualified arbitrators.

#### **Increasing the Arbitrators' Productivity**

The NMB began a number of projects and efforts with the goal of increasing the arbitrators' productivity. Effective April 1, 2001, the NMB began a new procedure for the payment of arbitrators' salaries. This process resulted in the arbitrators not receiving payment for services rendered until after the award was written and provided to the parties. The NMB continued rigorous enforcement of the six-month rule which identifies arbitrators who heard cases more than six months ago and who have not

rendered a decision. These arbitrators are now contacted monthly and “encouraged” to issue those decisions as soon as possible. This change in the method of payment, coupled with enforcement of the six-month rule, resulted in more decisions being submitted within six months from the hearing date.

The NMB also continued posting arbitrator information in a separate section on the NMB’s web site. The NMB, along with the Section 3 Committee, is studying the feasibility of expanding the use of the Internet to disseminate Section 3 data. At the NMB, three of the four divisions are now using e-mail to conduct business, thereby decreasing the time needed for decision making.

During this fiscal year, the NMB, in conjunction with the Section 3 Committee, began working on a Section 3 training seminar for arbitrators on Section 3 grievances. The objective of this seminar will be to familiarize new arbitrators with the arbitration process. This should increase the pool of qualified arbitrators available to the parties. The seminar, which will probably be held in Chicago, Illinois, will result in the actual assignment of cases to individuals who previously had not been selected to hear and decide cases. The use of these individuals will be monitored by the NMB over the coming year to track the success rate of the project.

#### **New Case Management System and Other Administrative Improvements**

As part of its overall plan to improve its management information system, the agency completed the time-consuming task of entering historical data into the arbitration case management system. This system will now enable the Board to track more accurately the caseload and identify trends which will be useful in assisting the parties. Recently, the NMB shared this information with the members of the Section 3 Committee. Over time, the system will enable the Board to help the parties prioritize case issues, evaluate existing boards, screen new cases filed, and identify grievance issues by regional location and parties involved.

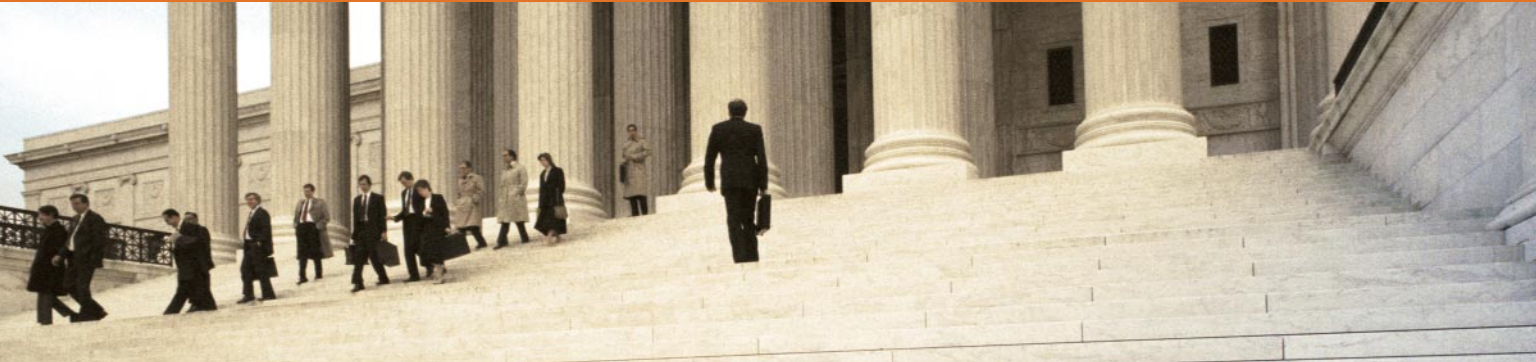
The NMB continued its successful program of using the agency’s web site as a source for many of the forms and documents needed by arbitrators and the parties. This use of the Internet allows arbitrators, the parties, and the public to obtain information and forms instantaneously and reduces the staff time which ordinarily would be required to respond to questions and requests.





FY 2001 RESULTS:

# presidential emergency boards



When the NMB determines that mediation has been unsuccessful, despite its best efforts, the Board proffers interest arbitration to the parties. Either labor or management may refuse the proffer and, after a 30-day cooling-off period, engage in a strike, implement new contract terms or engage in other types of economic self-help. Alternatively, the President may appoint a Presidential Emergency Board (PEB).

## OVERVIEW OF FISCAL YEAR 2001

If the NMB determines, pursuant to Section 160 of the Railway Labor Act (RLA), that a dispute threatens substantially to interrupt commerce to a degree that will deprive any section of the country of essential transportation service, the Board notifies the President. The President may, at his discretion, establish a PEB to “investigate and report respecting such dispute.” Status-quo conditions must be maintained throughout the period that the PEB is empaneled and for 30 days following the PEB’s report to the President. The President designates the of PEB members. If no agreement is reached, and there is no intervention by Congress, the parties are free to engage in self help 30 days after the PEB’s report to the President.

Apart from the emergency board procedures provided by Section 160, Section 159a of the RLA provides special multi-step emergency procedures for unresolved disputes affecting publicly funded and operated commuter railroads and their employees. If the mediation procedures are

exhausted, the parties to the dispute or the Governor of any state where the railroad operates, may request the President to establish a PEB. The President is required to establish such a board if requested. If no settlement is reached within 60 days following the creation of the PEB, the NMB is required to conduct a public hearing on the dispute. If there is no settlement within 120 days after the creation of the PEB, any party or the Governor of any affected state, may request a second final offer PEB. No self help is permitted pending the exhaustion of these emergency procedures.

While PEB’s are part of the RLA, the use of PEB’s indicates that the parties have not been able to reach voluntary agreements. The fact that there was only one PEB during FY 2001, when there were several major airline disputes, reflects that the parties, either on their own or with Board assistance, successfully reached voluntary agreements without the need for PEB’s.

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## HIGHLIGHTS OF FISCAL YEAR 2001

### Presidential Emergency Board 235

After more than one year of mediation, the Board notified that President that the dispute between Northwest Airlines and AMFA threatened substantially to interrupt commerce to a degree such as to deprive the country of essential transportation service. The President created PEB 235 on March 9, 2001 and appointed Helen Witt as Chairman, and Robert Harris and Richard Kasher as members. The PEB conducted a four-day hearing in Philadelphia, Pennsylvania. There were 32 open issues and a total difference of approximately \$2.2 billion between the parties' positions over a period of 5-years. After the hearing, but before the PEB issued its report to the President, Northwest and AMFA reached a tentative agreement with the assistance of NMB mediators and Board Members. AMFA voted to accept the agreement and PEB 235 ended without a report to President Bush.

### Other Potential Presidential Emergency Boards Avoided

FY 2001 offered unprecedented challenges for the NMB. In addition to the NWA and AMFA dispute, Delta Airlines and ALPA, American Airlines and APFA, each experienced cooling off periods. Comair and ALPA endured an 89-day strike. Notwithstanding these difficult circumstances, each of these cases resulted in an agreement without the need for intervention by the President.





## FY 2001 RESULTS:

# management and support programs



The primary management and support programs for the National Mediation Board are housed within two departments: Finance and Administration (F&A), and Program Development and Outreach (PDO). Together, these departments include budget and finance, human resources, information technology, research, staff development, and public information. From a budgetary standpoint, most of the costs of management and support programs are contained in the Mediation/Representation section of the budget. Because human resources and information technology functions are outsourced, these activities are prorated between the mediation and arbitration program areas.

### FINANCIAL MANAGEMENT

Finance and Administration provides budget planning and development, and oversight of budget execution. In addition, F&A is responsible for the maintenance of the agency's core accounting system, financial reporting to the Office of Management and Budget (OMB) and Treasury, payments to vendors for goods and services received, issuing bills, and an annual audited financial statement. The NMB is currently in the process of being audited on its FY 2000 financial statements. The NMB will again work with an outside audit firm to establish the time frames for the FY 2001 financial audit. In accordance with applicable law, the agency's financial statements will be finalized by March 1, 2002.

Thorough reviews have found that the NMB does not have any material weakness in its financial

system, and is in compliance with the Federal Financial Management Improvement Act (FFMIA). The NMB has used the GLOWS financial system since 1993. In October 1999, the Board upgraded the financial system in accordance with the Joint Financial Management Improvement Program (JFMIP) guidelines. The upgraded financial system has passed the JFMIP testing process and is in compliance with financial laws and regulations.

The Government Management Reform Act (GMRA) and Government Performance and Results Act (GPRA) require the implementation of managerial cost accounting and performance reporting. Since the Board is a small agency with only three program areas, these program costs are already reported and budgeted in accordance with the agency's strategic and performance goals. The

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Finance and Administration department has processes in place which will identify and account for any new initiatives that the Board establishes within its program areas.

## HUMAN RESOURCES MANAGEMENT

In keeping with the Administration's goal of flattening the management structure, the NMB has reduced its management positions and has used contracted services to deliver high quality, cost-effective services across the Agency. The NMB continues to concentrate on recruiting and retaining a highly diverse and skilled workforce to meet its strategic and performance goals. The agency continues its Intergovernmental Personnel Act (IPA) arrangements with George Mason University and Howard University to expand its pool of diverse individuals interested in the airline and railroad industries.

During FY 2001 the Board further refined its performance plan, and revised the performance plans for each employee consistent with the agency's performance plan. In addition, the NMB established individual development plans (IDP) for each employee. During FY 2001 each Board employee began to fulfill the conditions of her or his IDP through training, on the job coaching and counseling, and other development modes.

As part of the NMB's ongoing commitment to encouraging diversity, an NMB EEO Committee was created to assist the Board's EEO Director. The Committee acts as an internal consulting group on EEO and civil rights matters, and members of the Committee serve as counselors and mediators in the EEO process. The Committee is also responsible for planning and executing training and for planning special events related to EEO and civil rights.

## INFORMATION TECHNOLOGY

The NMB continues to improve its mission performance, productivity, and administrative processes through better utilization of Information Technology (IT). The NMB has developed an IT Architecture, IT capital planning process, and IT security policy to better provide the staff with the overall direction of IT now and for the future.

The NMB security policy has been revised in accordance with applicable laws and regulations, ensuring that the agency's information will be safeguarded from data loss, incursion, or attack.

As the Board continues to integrate its IT functions into each mission area, the NMB will implement an IT capital planning document which outlines IT investments for the future. Based on the IT plan, the agency will begin in FY 2002 replacing its servers and in FY 2003 upgrading its current hardware to ensure that the Board's internal customers have the tools and technology necessary to accomplish their duties and responsibilities.

### NMB Website

The Board's website is located at [www.nmb.gov](http://www.nmb.gov). The focus of the website is to provide information on the principal functions of Mediation, Representation, Arbitration and Presidential Emergency Boards under the RLA. In keeping with the requirements of the Government Paperwork Elimination Act, forms to request services are located on the website. The Board continues to review and include information on the website which will meet all the necessary regulations for public disclosure. During FY 2002, the NMB will begin a process for placing previous years' determinations on the website.

## PUBLIC INFORMATION

During FY 2001, the Board took significant steps toward improving its delivery of public information. The agency web site was made a focus for “breaking news” and information, and the press and public information distribution system was converted to an electronic format to quicken the delivery of information. A public information policy statement was posted on the web site, stressing the sensitive nature of the information that the Board routinely handles, and the recognition of the Board’s responsibility to communicate accurate and timely information to the press and public.

For the first time the Board established customer service standards for responding to public inquiries, press inquiries, and other requests for information. The FY 2002 annual performance report will contain a summary of the Board’s performance under these new standards.

## RESEARCH AND DEVELOPMENT

FY 2001 marked the beginning of a development process that will culminate in a comprehensive internal research program for the NMB. Internal surveys and information management studies began to set the framework for collection and distribution of information to the employees of the Board, and several innovations in information distribution were instituted. Specifically, the review of news relevant to the Board’s mission areas was shifted to an electronic format in order to make information available locally and remotely for mediators working on cases, and the NMB Press was created as a set of internal network folders containing a variety of substantive documents relevant to mediation, representation, and arbitration. During FY 2002 more improvements will be made, and the Board will move toward a comprehensive document management program, including internal search and retrieval capability.

